THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.28547 of 1996

Date:17.02.2006

Between:

P.Venkat Reddy

-------PETITIONER

AND

The Divisional Engineer and another.

---------RESPONDENTS

ORDER:

This writ petition is filed complaining that the respondents are trying to demolish the front portion of the building bearing H.No.1/78, main road, Rajampet, Kadapa District of the petitioner, for the purpose of widening the road. The petitioner complains that the respondents did not follow the procedure prescribed by law nor any notice was issued to him.

The first respondent, Divisional Engineer, Roads & Buildings, filed a counter affidavit. He states that the petitioner had encroached the road margin and is causing obstruction to traffic. The encroachment is said to be up to 0.4 meters.

Heard the learned counsel for the petitioner and the learned Government Pleader for Roads and Buildings.

In umpteen number of cases, this Court held that whenever any encroachment is found on the road margins, the authorities concerned, of the Government, are entitled to remove the same, duly providing an opportunity to the encroachers to

vacate the encroached portion. Where, however, any structure in the private property is required to be demolished for the purpose of widening the road, the prescribed procedure needs to be followed. In such cases, the possession of the property can be taken, either with the consent of the parties or after payment of compensation.

In the instant case, the respondents state that the effort is only to remove the portion of the building, which was constructed by encroaching into the road margin.

Hence, the writ petition is disposed of, directing that in case the demolition is only in respect of the encroachment on the road margin, the respondents shall be under obligation to give adequate opportunity for the petitioner to remove the articles and other properties and to demolish the same thereafter. If, however, any portion of the building of the petitioner outside the road margin is needed for widening the road, the respondents shall follow the prescribed procedure before taking over the same. There shall be no order as to costs.

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17.02.2006

kdl